

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

<p>Grupo Petrotemex, S.A. DE C.V., DAK Americas LLC,</p> <p style="text-align:center">Plaintiffs,</p> <p>v.</p> <p>Polymetrix AG,</p> <p style="text-align:center">Defendant.</p>	<p>Case No. 16-cv-2401 (SRN/HB)</p> <p style="text-align:center">ORDER</p>
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Barbara D'Aquila, Laura J. Borst, and Margaret Rudolph, Norton Rose Fulbright US LLP, 60 S. 6th St., Ste. 3100, Minneapolis, MN 55402; Eric Schweibenz, J. Derek Mason, John F. Presper, and Robert Mattson, Oblon, McClelland, Maier & Neustadt, LLP, 1940 Duke St., Alexandria, VA 22314, for Plaintiffs.

Bernard E. Nodzon, Jr., Theodore Budd, Timothy Sullivan, Faegre Baker Daniels LLP, 90 S. 7th St., Ste. 2200, Minneapolis, MN 55402; Igor Shoiket, Stephen Youtsey, and Todd Noah, Dergosits & Noah LLP, One Embarcadero Center, Ste. 350, San Francisco, CA 94111, for Defendant

Richard Q. Liu, Jones Day, 90 S. 7th St., Ste. 4950, Minneapolis, MN 55402, for third party Chemtex International Inc.

Pamela Marentette and Chad Blumenfield, United States Attorney's Office, 600 United States Courthouse, 300 S. 4th St., Minneapolis, MN 55415, for third party United States Customs and Border Protection

SUSAN RICHARD NELSON, United States District Judge

Before the Court is a letter request from Defendant Polymetrix AG ("Polymetrix") requesting that the hearing on Plaintiffs' Motion to Compel [Doc. No. 248], scheduled for

September 14, 2018, be removed from the calendar or denied as untimely. (Def.’s Sept. 4, 2018 Letter at 4 [Doc. No. 254].) Plaintiffs’ motion concerns a third-party subpoena served on the United States Customs and Border Protection. (*See* Pls.’ Mot. to Compel at 1.)

Polymetrix argues that Plaintiffs, who filed the motion on August 29, 2018, obtained a hearing date that falls outside of the 90-day period of limited discovery permitted by the Court. (*Id.* at 1–3.) Polymetrix further argues that Plaintiffs were dilatory in moving to compel. (*Id.* at 3–4.)

In response, Plaintiffs assert that they were unable to file the motion earlier because they believed that the motion would be reviewed under the Administrative Procedures Act, which allows judicial review only of a final agency action. (Pls.’ Sept. 6, 2018 Letter at 1 [Doc. No. 260].) Plaintiffs contend that the agency’s action was not “final” until it provided a response to the subpoena on August 29, 2018. (*Id.*) Plaintiffs assert that they made every reasonable effort to obtain the necessary discovery during the 90-day period. (*Id.* at 3.) Further, they argue that Polymetrix cannot point to any prejudice that would result from going forward with the September 14, 2018 hearing. (*Id.*)

The Court has considered the parties’ positions and orders that the September 14, 2018 hearing will be held as scheduled and the Court will entertain argument on Plaintiffs’ Motion to Compel. However, consistent with the prior rulings of this Court limiting jurisdictional discovery to a 90-day period, no additional discovery or motion practice shall be permitted.

IT IS SO ORDERED.

Dated: September 10, 2018

s/Susan Richard Nelson
SUSAN RICHARD NELSON
United States District Judge